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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,148	12/30/2003	Oomman Painummoottil Thomas	18,708	3857

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EXAMINER

ASINOVSKY, OLGA

ART UNIT PAPER NUMBER

1711

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/749,148

Applicant(s)

THOMAS ET AL.

Examiner

Olga Asinovsky

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicants amend claims by including a mixture of a high performance elastomer, a low performance elastomer and a graft copolymer of the high and low performance elastomers; wherein the graft copolymer is selected from the group consisting of (a) block copolymers in which a block of the high performance elastomer is chemically attached to a backbone molecule of the low performance elastomer, (b) block copolymers in which a block of the low performance elastomer is chemically attached to a backbone molecule of the high performance elastomer, and (c) combinations thereof.

Referring to the original specification at page 8, lines 10-31, a graft copolymer is formed by the kneading and shearing in twin screw extruder at a temperature that is below the melting or softening temperature of both elastomer polymers. The term "chemically attached" does not introduce an additional component and/or agent. Thus, a graft copolymer "chemically attached" is the result of the heat and kneading effect upon the mixing the ingredients.

### *Claim Rejections - 35 USC § 102/103*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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3. Claims 1 and 4-35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walton et al U.S. Patent 6,479,154.

Reference has been discussed in the office action mailed on 04/13/2006.

Walton discloses coextruded elastomeric films comprising "high performance elastomer" and "low performance elastomer". The low performance elastomer is a core layer formed from polyolefin(s) in the presence of a single-site catalyst which is known as metallocene catalyst, col. 9, lines 24-33, for the present claims 9-10. The low performance elastomer can have a density below 0.89 g/cm<sup>3</sup> or 0.90 g/cm<sup>3</sup>, col. 2, lines 33-35, for the present claims 9-10. The low performance elastomer is readable in the present claims 1, 9-10, 13, 25, 31. The low performance elastomer can be present in the amount of between about 35 and 50 wt%, for the present claims.

Walton discloses that the less elastic core material may be blended with a higher performance elastomeric styrenic based block copolymer materials for the purpose of improving overall elastic performance. "If a styrenic based block copolymer material is blended with the low performance elastomer, it is desirably present in an amount of between about 5 and 20 percent by weight of the core layer," column 10, lines 58-67.

The core layer is produce by extrusion polymer blend, col. 9, lines 24-30. A core layer formed by an extrusion technique and wherein said core comprising a low performance elastomer and a high performance elastomer in the amount of at least 5 wt.% is readable in the present claims for being a graft copolymer that is present in the claimed range between 0.1 to 10 % by weight. The claimed term "chemically attached" does not

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disclose a chemical agent or a catalyst. The present claims disclose a composition.

Walton does not use terms "chemically attached" and "graft copolymer." However, the definition of the graft copolymer in the amended claims is readable in the disclosure in Walton invention. The term "chemically attached" is within the scope by the effect of the extrusion upon heat performance of the same polyolefin(s) and the same high elastomeric styrenic based block copolymer material.

The high performance elastomer is a skin layer. The high performance elastomer can be formed from blend of thermoplastic polyurethane elastomers and polyetheramides, EMS polar component and a styrenic block copolymer elastomeric resin, col. 4, lines 38-52.

The low performance elastomer and the high performance elastomer are readable in the present claims. The definition for the high and low performance elastomers is readable in the present claims.

Walton discloses a multilayered film formed by coextrusion method with heat performance and wherein a high performance elastomer and a low performance elastomer and wherein a low performance elastomer can include at least 5 wt% of a high performance elastomer would be within the scope of a chemically attached issue in the present claims.

### ***Response to Arguments***

4. Applicant's arguments filed July 17, 2006 have been fully considered but they are not persuasive. The argument is that Walton does not disclose a graft copolymer

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specified in the amended claims. The definition for "graft copolymer" wherein a "block of the high performance elastomer is chemically attached to a backbone molecule of the low performance elastomer" or vice-versa, is readable in the disclosure in Walton invention. The term "chemically attached" is performed by a heat extrusion (referring to the present specification at page 8, lines 10-31). Walton discloses the multilayered product film upon mixing in the melt in twin screw extruder. An elastomeric composition in the present claims is readable in the composition for producing coextruded elastomeric films in the disclosure in Walton invention.

### **Conclusion**

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Asinovsky whose telephone number is 571-272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

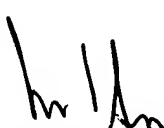
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

30 August 2006

  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700